

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**

OCT 20 2017

Clerk, U.S. District Court  
District Of Montana  
Missoula

LESLIE F. LAMBERT, JR.,

CV 17-52-H-DLC-JTJ

Plaintiff,

ORDER

vs.

MONTANA STATE PRISON,

Defendant.

United States Magistrate Judge John T. Johnston entered his Findings and Recommendations in this case on September 19, 2017, recommending that this action be dismissed for failure to state a claim. Plaintiff Leslie F. Lambert, Jr. ("Lambert") failed to timely object to the findings and recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

After reviewing the record and finding no clear error,

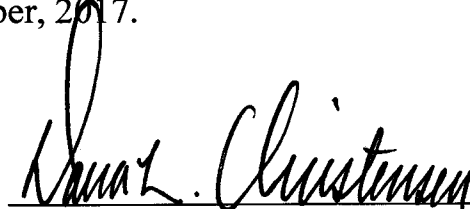
IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 10) are ADOPTED IN FULL. This matter is DISMISSED for failure to state a claim.

The Clerk of Court is directed to close this matter and enter judgment in favor of Defendant pursuant to Rule 58 of the Federal Rules of Civil Procedure.

The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the Complaint lacks arguable substance in law or fact.

The Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Lambert failed to state a claim upon which relief may be granted.

DATED this 20<sup>th</sup> day of October, 2017.

A handwritten signature in black ink, appearing to read "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court